

Claimant sustained injuries arising out of and in the course of his employment from April 1990 through September 20, 1991. Several physicians provided treatment and ultimately Dr. Kuhns became one of the authorized treating physicians. Dr. Kuhns initially prescribed conservative treatment and anti-inflammatory medications. When claimant indicated he did not obtain relief from the anti-inflammatory medications, Dr. Kuhns prescribed narcotic medications, including Lortab and Demerol. Claimant took this medication at a rate which exceeded the prescribed rate. Claimant also apparently gave false information to Dr. Kuhns about how much and when he was taking the medication.

Respondent asked Earnest R. Schlachter, M.D., to review the medical and treatment records of the claimant. Dr. Schlachter noted claimant was receiving frequent intramuscular narcotic injections of Demerol and Tordol as well as Promethazine. Dr. Schlachter advised he considered this treatment to be a deviation from the usual standard of medical care and recommended that the procedure be discontinued immediately. Dr. Zimmerman also opined that the narcotics were not medically necessary based upon claimant's physical condition.

Respondent now asks the Appeals Board to affirm the Order by the Administrative Law Judge requiring the Kansas Workers Compensation Fund to reimburse respondent for medical expenses related to the narcotic medications. Respondent asserts that these medications were not reasonably necessary to cure or relieve claimant from effects of the injury and accordingly payment is not required under K.S.A. 44-510. Respondent then relies on the provisions of K.S.A. 44-534a as authority for requiring the Workers Compensation Fund to reimburse those expenses. K.S.A. 44-534a(2)(b) provides in pertinent part as follows:

"If compensation in the form of medical benefits or temporary total disability benefits has been paid by the employer or employer's insurance carrier either voluntarily or pursuant to an award entered under this section . . . and, upon a full hearing on the claim, the amount of compensation to which the employee is entitled is found to be less than the amount of compensation paid or is totally disallowed, the employer and employer's insurance carrier shall be reimbursed from the workers compensation fund . . ."

The Appeals Board agrees that K.S.A. 44-534a provides authority for requiring the Workers Compensation Fund to reimburse respondent for medical expenses on a claim found not to be compensable. The Appeals Board does not agree, however, that the same provisions authorize retrospective utilization review relating to the specific medications, procedures or other specific treatment recommended. Utilization review shall be accomplished according to procedures established in accordance with K.S.A. 44-510. The treatment in this case was from an authorized treating physician for a compensable injury. The Appeals Board does not consider K.S.A. 44-534a(2)(b) to provide authority for ordering the Kansas Workers Compensation Fund to reimburse these expenses.

The Order entered by the Administrative Law Judge also states that the Workers Compensation Fund is to be liable for cost of treatment associated with claimant's chemical dependency. The record, in this case, does not contain evidence indicating what, if any, future treatment claimant may require. Accordingly, the Award of the Administrative Law Judge for future treatment for narcotic addiction is reversed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Shannon S. Krysl, dated December 13, 1995, should be, and is hereby, reversed. The respondent remains responsible for payment of the previously paid medical treatment at the direction of Dr. H. Richard Kuhns. The Kansas Workers Compensation Fund is not to be responsible to reimburse respondent for those expenses. The Order for future medical treatment is also reversed.

IT IS SO ORDERED.

Dated this ____ day of October, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Frederick L. Haag, Wichita, Kansas
Kendall R. Cunningham, Wichita, Kansas
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director